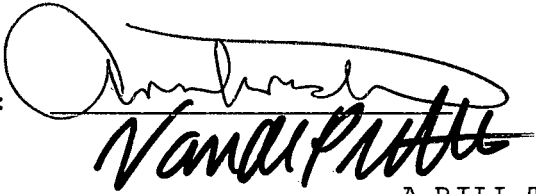


By:


Nandipati

S.B. No. 24

A BILL TO BE ENTITLED

AN ACT

relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain recharge [water supply] facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means ~~[includes]~~ a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other method of recharge project and associated facilities, structures, or works.

SECTION 2. Subsections (a), (c), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

____.B. No. ____

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the hydro-geologic connection and interaction between surface and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) ~~[(6)]~~ protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) ~~[(7)]~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(d)]~~ (f) ~~[(f)]~~ and (h) of this section ~~[and Section 1.26 of this article,]~~ for the period beginning January 1, 2005 ~~[2008]~~, the amount of permitted withdrawals from the aquifer may not exceed the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005 ~~[400,000 acre-feet of water for each calendar year]~~.

(f) If the level of the aquifer is equal to or greater than 665 ~~[650]~~ feet above mean sea level as measured at well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the

1 aquifer is equal to or greater than 845 feet at well J-27, the
2 authority may authorize withdrawal from the Uvalde pool, on an
3 uninterrupted basis, of permitted amounts. In accordance with
4 Section 1.26 of this article, the [The] authority shall limit the
5 additional withdrawals to ensure that springflows are not affected
6 during critical drought conditions.

7 (h) To accomplish the purposes of this article, [~~by June 1,~~
8 ~~1994,~~] the authority, through a program, shall implement and
9 enforce water management practices, procedures, and methods to
10 ensure that, not later than December 31, 2012, the continuous
11 minimum springflows of the Comal Springs and the San Marcos Springs
12 are maintained to protect endangered and threatened species to the
13 extent required by federal law and to achieve other purposes
14 provided by Subsection (a) of this section and Section 1.26 of this
15 article. The authority from time to time as appropriate may revise
16 the practices, procedures, and methods. To meet this requirement,
17 the authority shall require:

18 (1) phased reductions in the amount of water that may
19 be used or withdrawn by existing users or categories of other users,
20 including the authority's critical period management plan
21 established under Section 1.26 of this article; or

22 (2) implementation of alternative management
23 practices, procedures, and methods.

24 SECTION 3. Subsection (c), Section 1.15, Chapter 626, Acts
25 of the 73rd Legislature, Regular Session, 1993, is amended to read
26 as follows:

27 (c) The authority may issue regular permits, term permits,

1 and emergency permits. Except as provided in Section 1.14(f) and
2 Section 1.26 of this article, regular permits may not be issued on
3 an interruptible basis, and the total withdrawals authorized by all
4 regular permits issued by the authority may not exceed the
5 limitations provided by Section 1.14 of this article.

6 SECTION 4. Subsection (b), Section 1.19, Chapter 626, Acts
7 of the 73rd Legislature, Regular Session, 1993, is amended to read
8 as follows:

9 (b) Withdrawal of water under a term permit must be
10 consistent with the authority's critical period management plan
11 established under Section 1.26 of this article. A holder of a term
12 permit may not withdraw water from the San Antonio pool of the
13 aquifer unless the level of the aquifer is higher than 675 [665]
14 feet above sea level, as measured at Well J-17, and the flow at
15 Comal Springs as determined by Section 1.26(c) of this article is
16 greater than 350 cfs.

17 SECTION 5. Article 1, Chapter 626, Acts of the 73rd
18 Legislature, Regular Session, 1993, is amended by amending Section
19 1.26 and adding Section 1.26A to read as follows:

20 Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After
21 review of the recommendations received, as prescribed in Section
22 1.26A of this article, the [The] authority shall prepare and
23 coordinate implementation of a [plan for] critical period
24 management plan in a manner consistent with Section 1.14(a) of this
25 article [on or before September 1, 1995]. The mechanisms must:

26 (1) distinguish between discretionary use and
27 nondiscretionary use;

____.B. No. ____

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; and

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law.

(b) In this section, "MSL" means the elevation, measured in feet, of the surface of the water in a well above mean sea level, and "CFS" means cubic feet per second. Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE SAN ANTONIO POOL

			<u>WITHDRAWAL</u>
<u>INDEX WELL</u>	<u>COMAL SPRINGS</u>	<u>CRITICAL</u>	<u>REDUCTION</u>
<u>J-17 LEVEL MSL</u>	<u>FLOW CFS</u>	<u>PERIOD STAGE</u>	<u>PERCENTAGE</u>
<u><665</u>	<u>N/A</u>	<u>I</u>	<u>10%</u>
<u><650</u>	<u>N/A</u>	<u>II</u>	<u>10%</u>
<u><640</u>	<u><150</u>	<u>III</u>	<u>10%</u>
<u><630</u>	<u><100</u>	<u>IV</u>	<u>10%</u>

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE UVALDE POOL

		<u>WITHDRAWAL</u>
<u>INDEX WELL J-27 MSL</u>	<u>CRITICAL PERIOD</u>	<u>REDUCTION</u>
<u>FOR UVALDE POOL</u>	<u>STAGE</u>	<u>PERCENTAGE</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>II</u>	<u>N/A</u>
<u><845</u>	<u>III</u>	<u>15%</u>
<u><842</u>	<u>IV</u>	<u>15%</u>

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Beginning ^{November} ~~September~~ 1, 2005, the authority shall reduce

____.B. No. ____

1 the volume of permitted withdrawals to an annualized rate of
2 340,000 acre-feet, under critical period Stage IV. After January
3 1, 2012, the authority shall reduce the volume of permitted
4 withdrawals to 320,000 acre-feet, under critical period Stage IV.

5 (e) After January 1, 2020, the authority, after review and
6 consideration of recommendations received by the authority under
7 Section 1.26A of this article, shall adjust the volume of permitted
8 withdrawals to an appropriate annualized rate under critical period
9 Stage IV that is consistent with maintaining the protections
10 contained in Section 1.14(a) of this article.

11 (f) From time to time, the authority by rule may amend the
12 withdrawal reduction criteria of the authority's critical period
13 management plan as set forth in Subsections (b), (c), and (e) of
14 this section, after review and consideration of the recommendations
15 from the Environmental Flows Commission, or the Texas Water
16 Development Board if the Environmental Flows Commission is not
17 established, the Edwards Aquifer area expert science team, and the
18 Edwards Aquifer Area Stakeholders Committee, as prescribed in
19 Section 1.26A of this article. The amended plan must be consistent
20 with Section 1.14(a) of this article.

21 Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND
22 STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental
23 Flows Commission, as established under Section 11.0236, Water Code,
24 or the Texas Water Development Board if the Environmental Flows
25 Commission is not established, shall appoint a 15-member Edwards
26 Aquifer Area Stakeholders Committee not later than January 1, 2006.
27 The composition of the committee will be as follows:

...B. No. ...

(1) five holders of municipal permits issued by the authority;

(2) two holders of irrigation permits issued by the authority;

(3) three holders of industrial permits issued by the authority;

(4) four downstream water rights holders in the Guadalupe River Basin; and

(5) one representative of a public interest group related to instream flows in the Guadalupe River Basin and bay and estuary inflows from the Guadalupe River.

(b) The Edwards Aquifer Area Stakeholders Committee shall appoint a seven-member Edwards Aquifer area expert science team not later than April 30, 2006. The expert science team must be composed of technical experts with special expertise regarding the Edwards Aquifer system, spring flows, or the development of withdrawal limitations. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science team. A member of the Texas Environmental Flows science advisory committee, or a designee of the Texas Water Development Board if the Environmental Flows ~~Commission~~ ^{Science Advisory Committee} is not established in Section 11.02361, Water Code, shall serve as liaison to the Edwards Aquifer area expert science team.

(c) The expert science team shall develop an analysis of spring discharge rates and aquifer levels as a function of withdrawal levels. Based upon this analysis and the required elements to be considered by the authority in Section 1.14 of this

1 article, the Edwards Aquifer area expert science team shall,
2 through a collaborative process designed to achieve consensus,
3 create recommendations for withdrawal reduction levels and stages
4 for critical period management including, if appropriate,
5 establishing separate and different withdrawal reduction levels
6 and stages for critical period management rules for different pools
7 of the aquifer and submit them to the Edwards Aquifer Area
8 Stakeholders Committee, the Environmental Flows Commission or the
9 Texas Water Development Board if the Environmental Flows Commission
10 is not established, and the authority. The initial recommendations
11 must be completed and submitted no later than September 30, 2006.

12 (d) In developing its recommendations, the Edwards Aquifer
13 area expert science team must consider all reasonably available
14 science, including any Edwards Aquifer specific studies, and the
15 recommendations must be based solely on the best science available.
16 The Edwards Aquifer Area Stakeholders Committee may not change the
17 recommendations of the Edwards Aquifer area expert science team
18 regarding the withdrawal limitations appropriate to achieve the
19 purposes of Section 1.14 of this article.

20 (e) The Edwards Aquifer Area Stakeholders Committee shall
21 review the withdrawal limitation and critical period management
22 recommendations submitted by the expert science team and shall
23 consider them in conjunction with other factors, including the
24 present and future needs for water for other uses related to water
25 supply planning in the Edwards Aquifer area and the required
26 elements to be considered by the authority in Section 1.14 of this
27 article. The stakeholders committee shall develop recommendations

____.B. No. ____

1 regarding a critical period management plan and submit its
2 recommendations to the authority and to the Environmental Flows
3 Commission or the Texas Water Development Board if the
4 Environmental Flows Commission is not established. In developing
5 its recommendations, the stakeholders committee shall operate on a
6 consensus basis to the maximum extent possible. The initial
7 recommendations must be completed and submitted no later than
8 October 31, 2006.

9 (f) The Environmental Flows Commission or the Texas Water
10 Development Board if the Environmental Flows Commission is not
11 established shall submit to the authority its comments on and
12 recommendations regarding the Edwards Aquifer area expert science
13 team's recommended withdrawal reduction levels and stages for
14 critical period management needed to maintain target spring
15 discharge and aquifer levels. The withdrawal reduction
16 recommendations shall be based upon a combination of spring
17 discharge rates of the San Marcos and Comal Springs and levels at
18 the J-17 and J-27 wells.

19 (g) The Edwards Aquifer area expert science team, Edwards
20 Aquifer Area Stakeholders Committee, and the Environmental Flows
21 Commission or the Texas Water Development Board if the
22 Environmental Flows Commission is not established shall submit
23 recommendations to the authority for use in developing its rules
24 relative to establishing the critical period management plan.

25 (h) Where reasonably practicable, meetings of the Edwards
26 Aquifer area expert science team and Edwards Aquifer Area
27 Stakeholders Committee must be open to the public.

1 (i) In recognition of the importance of critical period
2 management to adapt to changed conditions or information, after
3 submitting its recommendations regarding withdrawal limitations
4 and strategies to meet the spring flow needs to the authority, the
5 stakeholders committee, with the assistance of the expert science
6 team, shall prepare and submit to the Environmental Flows
7 Commission or the Texas Water Development Board if the
8 Environmental Flows Commission is not established a work plan. The
9 work plan must:

10 (1) establish a periodic review of the critical period
11 management plan, to occur at least once every five years;

12 (2) prescribe specific monitoring, studies, and
13 activities; and

14 (3) establish a schedule for continuing the validation
15 or refinement of the critical period management plan adopted by the
16 authority, and the strategies to achieve the plan.

17 (j) To assist the Environmental Flows Commission or the
18 Texas Water Development Board if the Environmental Flows Commission
19 is not established to assess the extent to which the
20 recommendations of the Edwards Aquifer area expert science team are
21 considered and implemented, the authority shall provide written
22 reports to the Environmental Flows Commission or the Texas Water
23 Development Board if the Environmental Flows Commission is not
24 established, at intervals determined by the Environmental Flows
25 Commission or the Texas Water Development Board if the flows
26 commission is not established, that describe:
27 (1) the actions taken in response to each

1 recommendation; and

2 (2) for each recommendation not implemented, the
3 reason it was not implemented.

4 SECTION 6. Subsections (b) and (i), Section 1.29, Section
5 626, Acts of the 73rd Legislature, Regular Session, 1993, are
6 amended to read as follows:

7 (b) The authority shall assess equitable aquifer management
8 fees based on aquifer use under the water management plan to finance
9 its administrative expenses and programs authorized under this
10 article. Each water district governed by Chapter 36 [52], Water
11 Code, that is within the authority's boundaries may contract with
12 the authority to pay expenses of the authority through taxes in lieu
13 of user fees to be paid by water users in the district. The contract
14 must provide that the district will pay an amount equal to the
15 amount that the water users in the district would have paid through
16 user fees. The authority may not collect a total amount of fees and
17 taxes that is more than is reasonably necessary for the
18 administration of the authority.

19 (i) The authority shall provide money as necessary, but not
20 to exceed \$75,000, annually adjusted for changes in the consumer
21 price index [~~five percent of the money collected under Subsection~~
22 ~~(d) of this section~~], to finance the South Central Texas Water
23 Advisory Committee's administrative expenses and programs
24 authorized under this article.

25 SECTION 7. Chapter 626, Acts of the 73rd Legislature,
26 Regular Session, 1993, is amended by adding Section 1.29A to read as
27 follows:

1 Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) The
2 authority shall appoint a budgetary advisory committee no later
3 than November 30, 2005, to consult and advise the authority on the
4 following prior to its submission to the board:

5 (1) the issuance of bonds;

6 (2) the authority's annual budget; and

7 (3) the authority's annual audit.

8 (b) Each voting member of the board shall appoint one member
9 of the budgetary advisory committee.

10 SECTION 8. Subsection (a), Section 1.45, Chapter 626, Acts
11 of the 73rd Legislature, Regular Session, 1993, is amended to read
12 as follows:

13 (a) The authority may own, finance, design, construct,
14 [build or] operate, and maintain recharge dams and associated
15 facilities, structures, or works in the contributing or recharge
16 area of the aquifer if the recharge is made to increase the yield of
17 the aquifer and the recharge project does not impair senior water
18 rights or vested riparian rights.

19 SECTION 9. The following sections of Chapter 626, Acts of
20 the 73rd Legislature, Regular Session, 1993, are repealed:

21 (1) Subsections (b) and (d), Section 1.14;

22 (2) Section 1.18;

23 (3) Section 1.21; and

24 (4) Subsections (a), (c), (d), and (h), Section 1.29.

25 SECTION 10. This Act takes effect November 1, 2005.

BILL ANALYSIS

Senate Research Center

S.B. 24
By: Armbrister
Natural Resources
6/24/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Provides that Edwards Aquifer Authority (EAA) owns, finances, and maintains the recharge facilities. It requires the EAA to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period stage IV. After January 1, 2012, the EAA will be required to reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period IV. It authorizes the EAA stakeholders committee to appoint a seven-member expert science team to assist with providing technical expertise regarding the Edwards Aquifer system, spring flows, or the development of withdrawal limitations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Edwards Aquifer Authority in SECTION 5 (Section 1.26, Chapter 626, Acts of the 73rd Legislature, 1993) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. Redefines "recharge facility" for the purpose of this subsection. Deletes existing text prohibiting fees from being used for purchasing or operating facilities.

SECTION 2. Amends Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, by amending Subsections (a), (c), (f), and (h), as follows:

(a) Requires authorizations to withdraw water from Edwards Aquifer (aquifer) and all authorizations and rights to make a withdrawal under this Act to be limited in accordance with this section to recognize the hydro-geologic connection and interaction between surface and groundwater.

(c) Prohibits the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section, for the period beginning January 1, 2005, rather than 2008, from exceeding the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005. Deletes text providing exceptions by Subsection (d) and Section 1.26 of this article. Deletes text prohibiting the permitted amount of withdrawals from the aquifer from exceeding 400,000 acre-feet for each calendar year.

(f) Authorizes the authority, if the level of the aquifer is equal to or greater than 665, rather than 650, feet above mean sea level as measured at well J17, to authorize withdrawal from the San Antonio pool, on an uninterrupted basis, of permitted amounts. Requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Authorizes the authority, to accomplish the purposes of this article, through a program, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. Authorizes the authority from time to time as appropriate to revise the practices, procedures, and methods. Requires the authority, to meet this requirement, to require phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users or implementation of alternative management practices, procedures, and methods, including the authority's critical period management plan established under Section 1.26 of this article or implementation of alternative management practices, procedures, and methods.

SECTION 3. Amends Section 1.15(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit regular permits, except as provided in Section 1.14(f) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total authorized withdrawals authorized by all regular permits issued by the authority from exceeding the limitation provided by Section 1.14 of this article.

SECTION 4. Amends Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Requires the withdrawal of water under a term permit to be consistent with the authority's critical period management plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing from the San Antonio pool of the aquifer unless the level of the aquifer is higher than 675, rather 665, feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) is greater than 350 cfs.

SECTION 5. Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Section 1.26 and adding Sections 1.26A, as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority, after review of the recommendations received, as prescribed in Section 1.26A of this article, to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(a). Deletes existing text regarding a deadline.

(b) Defines "MSL" and "CFS." Requires the authority, not later than January 1, 2006, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2.

(c) Requires the authority to continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. Requires the authority to track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Requires the authority, beginning September 1, 2005, to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV. Requires the authority, after January 1, 2012, to reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period IV.

(e) Requires the authority, after January 1, 2020, and after review and consideration of recommendations received by the authority under Section 1.26A of this article, to adjust the volume of permitted withdrawals to an appropriate

annualized rate under critical period Stage IV that is consistent with maintaining the protections contained in Section 1.14(a) of this article.

(f) Authorizes the authority, from time to time, by rule, to amend the withdrawal reduction criteria of the critical period management plan as set forth in Subsections (b) and (c), after review and consideration of the recommendations from the Environmental Flows Commission, or the Texas Water Development Board (board) if the Environmental Flows Commission is not established, the Edwards Aquifer area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed in Section 1.26A of this article. Requires the amended plan to be consistent with Section 1.14(a) of this article.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) Requires the Environmental Flows Commission, as established under Section 11.0236, Water Code, or the board if the Environmental Flows Commission is not established, to appoint a 15-member Edwards Aquifer Area Stakeholders Committee (stakeholders committee) not later than January 1, 2006. Sets forth the composition of the committee.

(b) Requires the stakeholders committee to appoint a seven-member Edwards area expert science team (expert science team) not later than April 30, 2006. Requires the expert science team to be composed of technical members with certain special expertise. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science team. Requires a member of Texas Environmental Flows science advisory committee, or a designee of the board if the Environmental Flows Commission is not established in Section 11.02361, Water Code, to serve as liaison to the expert science team.

(c) Requires the expert science team to develop an analysis of spring discharge rates and aquifer levels as a function of withdrawal levels. Requires the expert science team, based upon this analysis and the required elements to be considered by the authority in Section 1.14 of this article, through a collaborative process designed to achieve consensus, to create recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and different withdrawal reduction levels and stages for critical period management rules for different pools of the aquifer and submit them to the stakeholders committee, the flows commission, and the authority. Requires the initial recommendations to be completed and submitted no later than September 30, 2006.

(d) Requires the expert science team, in developing its recommendations, to consider all reasonably available science, including any Edwards Aquifer specific studies, and to be based solely on the best science available. Prohibits the stakeholders committee from changing the recommendations of the expert science team regarding the withdrawal limitations appropriate to achieve the purposes of Section 1.14 of this article.

(e) Requires the stakeholders committee to review the withdrawal limitation and critical period management submitted by the expert science team and to consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the Edwards Aquifer area and the required elements to be considered by the authority in Section 1.14 of this article. Requires the stakeholders committee to develop recommendations regarding a critical period management plan and submit its recommendations to the authority and the Environmental Flows Commission or the board if the Environmental Flows Commission is not established. Requires the stakeholders committee, in developing its recommendations, to operate on a consensus basis to the maximum extent possible. Requires the initial recommendations to be completed and submitted no later than October 31, 2006.

(f) Requires the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to submit to the authority its comments on and recommendations regarding the expert science team's recommended withdrawal reduction levels and stages for critical management needed to maintain target spring discharge and aquifer levels. Requires the withdrawal reduction recommendations to be based upon a combination of spring discharge rates of the San Marcos and Comal Springs and levels at J-17 and J-27 wells. Requires the expert science team to submit its withdrawal recommendations to the stakeholders committee, the flows commission, and the authority. Requires the initial comments and recommendations to be submitted no later than November 30, 2006.

(g) Requires the expert science team, stakeholder committee, and the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to submit recommendations to the authority for use in developing its rules relative to establishing the critical period management plan.

(h) Requires the meetings of the expert science team and stakeholders committee, where reasonably practicable, to be open to the public.

(i) Requires the stakeholders committee, with the assistance of the expert science team, in recognition of the importance of critical period management to adapt to changed conditions or information, after submitting its recommendations regarding withdrawal limitations and strategies to meet the spring flow needs to the authority, to prepare and submit a specific work plan to the Environmental Flows Commission or the board if the Environmental Flows Commission is not established. Sets forth the requirements of the work plan.

(j) Requires the authority, to assist the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to assess the extent to which the recommendations of the expert science team are considered and implements, to provide specific written reports to the Environmental Flows Commission or the board if the Environmental Flows Commission is not established, at intervals determined by the Environmental Flows Commission or the Texas Water Development Board if the flows commission is not established.

SECTION 6. Amends Sections 1.29(b) and (i), Section 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Authorizes each water district governed by Chapter 36, rather than 52, Water Code, that is within the authority's boundaries to contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district.

(i) Requires the authority to provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index, rather than five percent of the money collected under Subsection (d), to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article. Sets forth requirements of the work plan.

SECTION 7. Amends Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 1.29A, as follows:

Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) Requires the authority to appoint a budgetary advisory committee no later than November 30, 2005, to consult and advise the authority on certain budget issues prior to its submission to the board.

(b) Requires each voting member of the board to appoint one member of the budgetary advisory committee.

SECTION 8. Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes.

SECTION 9. Repealer: (1) Sections 1.14 (b) (relating to the amount of permitted withdrawals from the aquifer), and (d) (relating to authorizing the authority to increase the maximum amount of withdrawals), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(2) Section 1.21 (Permit Requirement), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(3) Sections 1.29 (a) (relating to requiring the cost of reducing withdrawals or permit retirements), (c) (relating to authorizing the authority to assess an equitable special fee), (d) (relating to requiring the commission to assess equitable special fees), and (h) (relating to prohibiting the use of special fees) Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 10. Effective date: November 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

June 24, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB24 by Armbrister (Relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would modify withdrawal limits from the Edwards Aquifer and establish pumping reduction levels and stages for critical period management. The bill would create additional administrative responsibilities for the Edwards Aquifer Authority (EAA) and the Texas Water Development Board (TWDB). The bill would take effect November 1, 2005.

TWDB reports that any new administrative responsibilities could be absorbed using existing resources.

Local Government Impact

It is anticipated that the EAA could absorb additional administrative responsibilities within existing resources. Because provisions of the bill could raise overall annual withdrawal rates from the Edwards Aquifer, local governments depending on water from that source could benefit from greater water availability. However, because of the bill's provisions relating to critical period management plans, local governments also could be forced to find more expensive sources of water. Any costs would depend on the levels of rainfall and the aquifer.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, DLBa

By: Armbrister S.B. No. 24
(In the Senate - Filed June 22, 2005; June 23, 2005, read first time and referred to Committee on Natural Resources; June 29, 2005, reported favorably by the following vote: Yeas 9, Nays 0; June 29, 2005, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, [contract with a person who uses water from the aquifer for the authority or that person to] construct, operate, or [own, finance, and] maintain recharge [water supply] facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. [Management fees or special fees may not be used for purchasing or operating these facilities.] For the purpose of this subsection, "recharge [water supply] facility" means [includes] a dam, reservoir, [treatment facility, transmission facility,] or other method of recharge project and associated facilities, structures, or works.

SECTION 2. Subsections (a), (c), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the hydro-geologic connection and interaction between surface and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) ~~[(6)]~~ protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) ~~[(7)]~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(d)]~~ (f) ~~[(7)]~~ and (h) of this section ~~[and Section 1.26 of this article]~~, for the period beginning January 1, 2005 ~~[2008]~~, the amount of permitted withdrawals from the aquifer may not exceed the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005 ~~[400,000 acre-feet of water for each calendar year]~~.

(f) If the level of the aquifer is equal to or greater than 665 ~~[650]~~ feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. In accordance with Section 1.26 of this article, the [The] authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) To accomplish the purposes of this article, ~~[by June 1,~~

~~1994,~~] the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users, including the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION 3. Subsection (c), Section 1.15, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(c) The authority may issue regular permits, term permits, and emergency permits. Except as provided in Section 1.14(f) and Section 1.26 of this article, regular permits may not be issued on an interruptible basis, and the total withdrawals authorized by all regular permits issued by the authority may not exceed the limitations provided by Section 1.14 of this article.

SECTION 4. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless the level of the aquifer is higher than 675 [665] feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cfs.

SECTION 5. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received, as prescribed in Section 1.26A of this article, the [The] authority shall prepare and coordinate implementation of a [plan for] critical period management plan in a manner consistent with Section 1.14(a) of this article [on or before September 1, 1995]. The mechanisms must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; and

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law.

(b) In this section, "MSL" means the elevation, measured in feet, of the surface of the water in a well above mean sea level, and "CFS" means cubic feet per second. Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted

withdrawals under Table 1 and 30 percent under Table 2:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE SAN ANTONIO POOL

<u>INDEX WELL</u> <u>J-17 LEVEL MSL</u>	<u>COMAL SPRINGS</u> <u>FLOW CFS</u>	<u>CRITICAL</u> <u>PERIOD STAGE</u>	<u>WITHDRAWAL</u> <u>REDUCTION</u> <u>PERCENTAGE</u>
<665	N/A	I	10%
<650	N/A	II	10%
<640	<150	III	10%
<630	<100	IV	10%

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE UVALDE POOL

<u>INDEX WELL J-27 MSL</u> <u>FOR UVALDE POOL</u>	<u>CRITICAL PERIOD</u> <u>STAGE</u>	<u>WITHDRAWAL</u> <u>REDUCTION</u> <u>PERCENTAGE</u>
N/A	N/A	N/A
N/A	II	N/A
<845	III	15%
<842	IV	15%

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Beginning November 1, 2005, the authority shall reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV. After January 1, 2012, the authority shall reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2020, the authority, after review and consideration of recommendations received by the authority under Section 1.26A of this article, shall adjust the volume of permitted withdrawals to an appropriate annualized rate under critical period Stage IV that is consistent with maintaining the protections contained in Section 1.14(a) of this article.

(f) From time to time, the authority by rule may amend the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsections (b), (c), and (e) of this section, after review and consideration of the recommendations from the Environmental Flows Commission, or the Texas Water Development Board if the Environmental Flows Commission is not established, the Edwards Aquifer area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed in Section 1.26A of this article. The amended plan must be consistent with Section 1.14(a) of this article.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Environmental Flows Commission, as established under Section 11.0236, Water Code, or the Texas Water Development Board if the Environmental Flows Commission is not established, shall appoint a 15-member Edwards Aquifer Area Stakeholders Committee not later than January 1, 2006. The composition of the committee will be as follows:

- (1) five holders of municipal permits issued by the authority;
- (2) two holders of irrigation permits issued by the authority;
- (3) three holders of industrial permits issued by the authority;
- (4) four downstream water rights holders in the Guadalupe River basin; and
- (5) one representative of a public interest group related to instream flows in the Guadalupe River basin and bay and estuary inflows from the Guadalupe River.

(b) The Edwards Aquifer Area Stakeholders Committee shall appoint a seven-member Edwards Aquifer area expert science team not later than April 30, 2006. The expert science team must be composed

4-1 of technical experts with special expertise regarding the Edwards
4-2 Aquifer system, spring flows, or the development of withdrawal
4-3 limitations. Chapter 2110, Government Code, does not apply to the
4-4 size, composition, or duration of the expert science team. A member
4-5 of the Texas Environmental Flows Science Advisory Committee, or a
4-6 designee of the Texas Water Development Board if the Texas
4-7 Environmental Flows Science Advisory Committee is not established
4-8 in Section 11.02361, Water Code, shall serve as liaison to the
4-9 Edwards Aquifer area expert science team.

4-10 (c) The expert science team shall develop an analysis of
4-11 spring discharge rates and aquifer levels as a function of
4-12 withdrawal levels. Based upon this analysis and the required
4-13 elements to be considered by the authority in Section 1.14 of this
4-14 article, the Edwards Aquifer area expert science team shall,
4-15 through a collaborative process designed to achieve consensus,
4-16 create recommendations for withdrawal reduction levels and stages
4-17 for critical period management including, if appropriate,
4-18 establishing separate and different withdrawal reduction levels
4-19 and stages for critical period management rules for different pools
4-20 of the aquifer and submit them to the Edwards Aquifer Area
4-21 Stakeholders Committee, the Environmental Flows Commission or the
4-22 Texas Water Development Board if the Environmental Flows Commission
4-23 is not established, and the authority. The initial recommendations
4-24 must be completed and submitted no later than September 30, 2006.

4-25 (d) In developing its recommendations, the Edwards Aquifer
4-26 area expert science team must consider all reasonably available
4-27 science, including any Edwards Aquifer specific studies, and the
4-28 recommendations must be based solely on the best science available.
4-29 The Edwards Aquifer Area Stakeholders Committee may not change the
4-30 recommendations of the Edwards Aquifer area expert science team
4-31 regarding the withdrawal limitations appropriate to achieve the
4-32 purposes of Section 1.14 of this article.

4-33 (e) The Edwards Aquifer Area Stakeholders Committee shall
4-34 review the withdrawal limitation and critical period management
4-35 recommendations submitted by the expert science team and shall
4-36 consider them in conjunction with other factors, including the
4-37 present and future needs for water for other uses related to water
4-38 supply planning in the Edwards Aquifer area and the required
4-39 elements to be considered by the authority in Section 1.14 of this
4-40 article. The stakeholders committee shall develop recommendations
4-41 regarding a critical period management plan and submit its
4-42 recommendations to the authority and to the Environmental Flows
4-43 Commission or the Texas Water Development Board if the
4-44 Environmental Flows Commission is not established. In developing
4-45 its recommendations, the stakeholders committee shall operate on a
4-46 consensus basis to the maximum extent possible. The initial
4-47 recommendations must be completed and submitted no later than
4-48 October 31, 2006.

4-49 (f) The Environmental Flows Commission or the Texas Water
4-50 Development Board if the Environmental Flows Commission is not
4-51 established shall submit to the authority its comments on and
4-52 recommendations regarding the Edwards Aquifer area expert science
4-53 team's recommended withdrawal reduction levels and stages for
4-54 critical period management needed to maintain target spring
4-55 discharge and aquifer levels. The withdrawal reduction
4-56 recommendations shall be based upon a combination of spring
4-57 discharge rates of the San Marcos and Comal Springs and levels at
4-58 the J-17 and J-27 wells.

4-59 (g) The Edwards Aquifer area expert science team, Edwards
4-60 Aquifer Area Stakeholders Committee, and the Environmental Flows
4-61 Commission or the Texas Water Development Board if the
4-62 Environmental Flows Commission is not established shall submit
4-63 recommendations to the authority for use in developing its rules
4-64 relative to establishing the critical period management plan.

4-65 (h) Where reasonably practicable, meetings of the Edwards
4-66 Aquifer area expert science team and Edwards Aquifer Area
4-67 Stakeholders Committee must be open to the public.

4-68 (i) In recognition of the importance of critical period
4-69 management to adapt to changed conditions or information, after

submitting its recommendations regarding withdrawal limitations and strategies to meet the spring flow needs to the authority, the stakeholders committee, with the assistance of the expert science team, shall prepare and submit to the Environmental Flows Commission or the Texas Water Development Board if the Environmental Flows Commission is not established a work plan. The work plan must:

(1) establish a periodic review of the critical period management plan, to occur at least once every five years;

(2) prescribe specific monitoring, studies, and activities; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority, and the strategies to achieve the plan.

(j) To assist the Environmental Flows Commission or the Texas Water Development Board if the Environmental Flows Commission is not established to assess the extent to which the recommendations of the Edwards Aquifer area expert science team are considered and implemented, the authority shall provide written reports to the Environmental Flows Commission or the Texas Water Development Board if the Environmental Flows Commission is not established, at intervals determined by the Environmental Flows Commission or the Texas Water Development Board if the Environmental Flows Commission is not established, that describe:

(1) the actions taken in response to each recommendation; and

(2) for each recommendation not implemented, the reason it was not implemented.

SECTION 6. Subsections (b) and (i), Section 1.29, Section 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [52], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(i) The authority shall provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index [~~five percent of the money collected under Subsection (d) of this section~~], to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 7. Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.29A to read as follows:

Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) The authority shall appoint a budgetary advisory committee no later than November 30, 2005, to consult and advise the authority on the following prior to its submission to the board:

(1) the issuance of bonds;

(2) the authority's annual budget; and

(3) the authority's annual audit.

(b) Each voting member of the board shall appoint one member of the budgetary advisory committee.

SECTION 8. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [build or] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer and the recharge project does not impair senior water

6-1 rights or vested riparian rights.

6-2 SECTION 9. The following sections of Chapter 626, Acts of
6-3 the 73rd Legislature, Regular Session, 1993, are repealed:

6-4 (1) Subsections (b) and (d), Section 1.14;

6-5 (2) Section 1.18;

6-6 (3) Section 1.21; and

6-7 (4) Subsections (a), (c), (d), and (h), Section 1.29.

6-8 SECTION 10. This Act takes effect November 1, 2005.

6-9 * * * * *

FAVORABLE
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 24
By Armbrister
(Author/Senate Sponsor)
6-29-05
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,
have on 6/29/05, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass and be printed
() do pass and be ordered not printed
() and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no

A revised fiscal note was requested. () yes ☒ no

An actuarial analysis was requested. () yes ☒ no

Considered by subcommittee. () yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	X			
Senator Jackson, Vice-Chair	X			
Senator Barrientos	X			
Senator Duncan	X			
Senator Estes	X			
Senator Fraser	X			
Senator Hinojosa	X			
Senator Lindsay			X	
Senator Madla	X			
Senator Seliger	X			
Senator Staples			X	
TOTAL VOTES	9	0	2	0

COMMITTEE ACTION

- (S260) Considered in public hearing
(S270) Testimony taken

Kelly C. Miller
COMMITTEE CLERK

[Signature]
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

SB 24

SENATE COMMITTEE REPORT

Natural Resources

June 27, 2005 - 10:00AM

FOR: Kosub, Steve (San Antonio Water System), San Antonio, TX
 Potts, Robert (Edwards Aquifer Authority), San Antonio, TX
 Vaughn, Ben (Coastal Conservation Association), Austin, TX

ON: Kramer, Ken (Lone Star Chapter, Sierra Club), Austin, TX
 West, Bill (GBRA), Seguin, TX

Registering, but not testifying:

For: Booth, Mike (City of Victoria), Austin, TX
 Buckner, Luana (Edwards Aquifer Authority), Hondo, TX
 Palmer, Corky (Texas Outdoor Recreation Alliance), Winchester, TX

BILL ANALYSIS

Senate Research Center

S.B. 24
By: Armbrister
Natural Resources
6/24/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Provides that Edwards Aquifer Authority (EAA) owns, finances, and maintains the recharge facilities. It requires the EAA to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period stage IV. After January 1, 2012, the EAA will be required to reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period IV. It authorizes the EAA stakeholders committee to appoint a seven-member expert science team to assist with providing technical expertise regarding the Edwards Aquifer system, spring flows, or the development of withdrawal limitations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Edwards Aquifer Authority in SECTION 5 (Section 1.26, Chapter 626, Acts of the 73rd Legislature, 1993) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(f) Authorizes the Edwards Aquifer Authority (authority) to own, finance, design, construct, operate, or maintain recharge facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or maintain recharge facilities. Redefines "recharge facility" for the purpose of this subsection. Deletes existing text prohibiting fees from being used for purchasing or operating facilities.

SECTION 2. Amends Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session 1993, by amending Subsections (a), (c), (f), and (h), as follows:

(a) Requires authorizations to withdraw water from Edwards Aquifer (aquifer) and all authorizations and rights to make a withdrawal under this Act to be limited in accordance with this section to recognize the hydro-geologic connection and interaction between surface and groundwater.

(c) Prohibits the amount of permitted withdrawals from the aquifer, except as provided by Subsections (f) and (h) of this section, for the period beginning January 1, 2005, rather than 2008, from exceeding the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005. Deletes text providing exceptions by Subsection (d) and Section 1.26 of this article. Deletes text prohibiting the permitted amount of withdrawals from the aquifer from exceeding 400,000 acre-feet for each calendar year.

(f) Authorizes the authority, if the level of the aquifer is equal to or greater than 665, rather than 650, feet above mean sea level as measured at well J17, to authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. Requires the authority, in accordance with Section 1.26 of this article, to limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) Authorizes the authority, to accomplish the purposes of this article, through a program, to implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. Authorizes the authority from time to time as appropriate to revise the practices, procedures, and methods. Requires the authority, to meet this requirement, to require phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users or implementation of alternative management practices, procedures, and methods, including the authority's critical period management plan established under Section 1.26 of this article or implementation of alternative management practices, procedures, and methods.

SECTION 3. Amends Section 1.15(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to prohibit regular permits, except as provided in Section 1.14(f) and Section 1.26 of this article, from being issued on an interruptible basis, and prohibits the total authorized withdrawals authorized by all regular permits issued by the authority from exceeding the limitation provided by Section 1.14 of this article.

SECTION 4. Amends Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Requires the withdrawal of water under a term permit to be consistent with the authority's critical period management plan established under Section 1.26 of this article. Prohibits a holder of a term permit from withdrawing from the San Antonio pool of the aquifer unless the level of the aquifer is higher than 675, rather 665, feet above sea level, as measured at Well J17, and the flow at Comal Springs as determined by Section 1.26(c) is greater than 350 cfs.

SECTION 5. Amends Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by amending Section 1.26 and adding Sections 1.26A, as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) Requires the authority, after review of the recommendations received, as prescribed in Section 1.26A of this article, to prepare and coordinate implementation of a critical period management plan in a manner consistent with Section 1.14(a). Deletes existing text regarding a deadline.

(b) Defines "MSL" and "CFS." Requires the authority, not later than January 1, 2006, by rule, to adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index levels or Comal Springs flow as may be applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2.

(c) Requires the authority to continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. Requires the authority to track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Requires the authority, beginning September 1, 2005, to reduce the volume of permitted withdrawals to an annualized rate of 340,000 acre-feet, under critical period Stage IV. Requires the authority, after January 1, 2012, to reduce the volume of permitted withdrawals to 320,000 acre-feet, under critical period IV.

(e) Requires the authority, after January 1, 2020, and after review and consideration of recommendations received by the authority under Section 1.26A of this article, to adjust the volume of permitted withdrawals to an appropriate

annualized rate under critical period Stage IV that is consistent with maintaining the protections contained in Section 1.14(a) of this article.

(f) Authorizes the authority, from time to time, by rule, to amend the withdrawal reduction criteria of the critical period management plan as set forth in Subsections (b) and (c), after review and consideration of the recommendations from the Environmental Flows Commission, or the Texas Water Development Board (board) if the Environmental Flows Commission is not established, the Edwards Aquifer area expert science team, and the Edwards Aquifer Area Stakeholders Committee, as prescribed in Section 1.26A of this article. Requires the amended plan to be consistent with Section 1.14(a) of this article.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) Requires the Environmental Flows Commission, as established under Section 11.0236, Water Code, or the board if the Environmental Flows Commission is not established, to appoint a 15-member Edwards Aquifer Area Stakeholders Committee (stakeholders committee) not later than January 1, 2006. Sets forth the composition of the committee.

(b) Requires the stakeholders committee to appoint a seven-member Edwards area expert science team (expert science team) not later than April 30, 2006. Requires the expert science team to be composed of technical members with certain special expertise. Provides that Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science team. Requires a member of Texas Environmental Flows science advisory committee, or a designee of the board if the Environmental Flows Commission is not established in Section 11.02361, Water Code, to serve as liaison to the expert science team.

(c) Requires the expert science team to develop an analysis of spring discharge rates and aquifer levels as a function of withdrawal levels. Requires the expert science team, based upon this analysis and the required elements to be considered by the authority in Section 1.14 of this article, through a collaborative process designed to achieve consensus, to create recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and different withdrawal reduction levels and stages for critical period management rules for different pools of the aquifer and submit them to the stakeholders committee, the flows commission, and the authority. Requires the initial recommendations to be completed and submitted no later than September 30, 2006.

(d) Requires the expert science team, in developing its recommendations, to consider all reasonably available science, including any Edwards Aquifer specific studies, and to be based solely on the best science available. Prohibits the stakeholders committee from changing the recommendations of the expert science team regarding the withdrawal limitations appropriate to achieve the purposes of Section 1.14 of this article.

(e) Requires the stakeholders committee to review the withdrawal limitation and critical period management submitted by the expert science team and to consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the Edwards Aquifer area and the required elements to be considered by the authority in Section 1.14 of this article. Requires the stakeholders committee to develop recommendations regarding a critical period management plan and submit its recommendations to the authority and the Environmental Flows Commission or the board if the Environmental Flows Commission is not established. Requires the stakeholders committee, in developing its recommendations, to operate on a consensus basis to the maximum extent possible. Requires the initial recommendations to be completed and submitted no later than October 31, 2006.

(f) Requires the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to submit to the authority its comments on and recommendations regarding the expert science team's recommended withdrawal reduction levels and stages for critical management needed to maintain target spring discharge and aquifer levels. Requires the withdrawal reduction recommendations to be based upon a combination of spring discharge rates of the San Marcos and Comal Springs and levels at J-17 and J-27 wells. Requires the expert science team to submit its withdrawal recommendations to the stakeholders committee, the flows commission, and the authority. Requires the initial comments and recommendations to be submitted no later than November 30, 2006.

(g) Requires the expert science team, stakeholder committee, and the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to submit recommendations to the authority for use in developing its rules relative to establishing the critical period management plan.

(h) Requires the meetings of the expert science team and stakeholders committee, where reasonably practicable, to be open to the public.

(i) Requires the stakeholders committee, with the assistance of the expert science team, in recognition of the importance of critical period management to adapt to changed conditions or information, after submitting its recommendations regarding withdrawal limitations and strategies to meet the spring flow needs to the authority, to prepare and submit a specific work plan to the Environmental Flows Commission or the board if the Environmental Flows Commission is not established. Sets forth the requirements of the work plan.

(j) Requires the authority, to assist the Environmental Flows Commission or the board if the Environmental Flows Commission is not established to assess the extent to which the recommendations of the expert science team are considered and implements, to provide specific written reports to the Environmental Flows Commission or the board if the Environmental Flows Commission is not established, at intervals determined by the Environmental Flows Commission or the Texas Water Development Board if the flows commission is not established.

SECTION 6. Amends Sections 1.29(b) and (i), Section 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Authorizes each water district governed by Chapter 36, rather than 52, Water Code, that is within the authority's boundaries to contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district.

(i) Requires the authority to provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index, rather than five percent of the money collected under Subsection (d), to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article. Sets forth requirements of the work plan.

SECTION 7. Amends Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 1.29A, as follows:

Sec. 1.29A. BUDGETARY ADVISORY COMMITTEE. (a) Requires the authority to appoint a budgetary advisory committee no later than November 30, 2005, to consult and advise the authority on certain budget issues prior to its submission to the board.

(b) Requires each voting member of the board to appoint one member of the budgetary advisory committee.

SECTION 8. Amends Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes.

SECTION 9. Repealer: (1) Sections 1.14 (b) (relating to the amount of permitted withdrawals from the aquifer), and (d) (relating to authorizing the authority to increase the maximum amount of withdrawals), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(2) Section 1.21 (Permit Requirement), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(3) Sections 1.29 (a) (relating to requiring the cost of reducing withdrawals or permit retirements), (c) (relating to authorizing the authority to assess an equitable special fee), (d) (relating to requiring the commission to assess equitable special fees), and (h) (relating to prohibiting the use of special fees) Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 10. Effective date: November 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

June 24, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB24 by Armbrister (Relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would modify withdrawal limits from the Edwards Aquifer and establish pumping reduction levels and stages for critical period management. The bill would create additional administrative responsibilities for the Edwards Aquifer Authority (EAA) and the Texas Water Development Board (TWDB). The bill would take effect November 1, 2005.

TWDB reports that any new administrative responsibilities could be absorbed using existing resources.

Local Government Impact

It is anticipated that the EAA could absorb additional administrative responsibilities within existing resources. Because provisions of the bill could raise overall annual withdrawal rates from the Edwards Aquifer, local governments depending on water from that source could benefit from greater water availability. However, because of the bill's provisions relating to critical period management plans, local governments also could be forced to find more expensive sources of water. Any costs would depend on the levels of rainfall and the aquifer.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, CL, DLBa

S.B. No. 24

By _____

AN ACT:

A BILL TO BE ENTITLED

relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

Vandy Puth

~~JUN 22 2005~~

Filed with the Secretary of the Senate

NATURAL RESOURCES

~~JUN 23 2005~~

Read and referred to Committee on _____

~~JUN 29 2005~~

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

Read second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by: { A viva voce vote
_____ yeas, _____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk _____

Received from the Senate

Read first time and referred to Committee on _____

Reported _____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays